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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

WILLIAM J. WHITSITT,

Plaintiff,

v.

DEPUTY SHERIFF JEAN ZEDLITZ, BADGE  
#1625; R. LANCE & SON TOWING STORAGE  
AGENCY; CITY OF DUBLIN; COUNTY OF  
ALAMEDA, CREDIT REGULATING SERVICES;  
10 UNNAMED DEFENDANTS

Defendants.

Case No.: C08-01803 JSW

DEFENDANT COUNTY OF ALAMEDA'S  
NOTICE OF MOTION TO DISMISS  
PURSUANT TO FRCP 12(b)(6)

Date: September 5, 2008  
Time: 9:00 am  
Courtroom: 2

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on September 5, 2008 at 9:00 am, in Courtroom 2, 17<sup>th</sup>  
Floor of the United States District Court at 450 Golden Gate Avenue, San Francisco, CA,  
Defendants DEPUTY SHERIFF JEAN ZEDLITZ, BADGE #1625; CITY OF DUBLIN; COUNTY  
OF ALAMEDA, (hereinafter "County Defendants") will and hereby do move the Court for an  
order granting dismissal of the Complaint pursuant to Federal Rule of Civil Procedure ("FRCP")  
12(b)(6).

1 This motion is made on the grounds that Plaintiff's Complaint lacks sufficient factual  
2 allegations to support a claim for relief against the County Defendants under 42 U.S.C § 1983;  
3 is vague, ambiguous, redundant, immaterial and unintelligible; and for all the reasons set forth  
4 in the Memorandum of Points and Authorities accompanying the motion.

5 This Motion will is based on this Notice, the attached Memorandum of Points and  
6 Authorities, Request for Judicial Notice, and the papers and records on file herein, and on such  
7 oral and documentary evidence as may be presented at the hearing of the motion.


8  
9 DATED:

July 22, 2008

RICHARD E. WINNIE

County Counsel in and for the County of  
Alameda, State of California

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11  
12 By

  
DIANE C. GRAYDON

Deputy County Counsel

Attorneys for County Defendants  
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## **MEMORANDUM OF POINTS AND AUTHORITIES**

Defendants DEPUTY SHERIFF JEAN ZEDLITZ, BADGE #1625; CITY OF DUBLIN; COUNTY OF ALAMEDA, ("County Defendants") by and through the Office of County Counsel, hereby move to dismiss Plaintiff's Complaint pursuant to FRCP 12(b)(6), or alternatively, for a more definite statement pursuant to FRCP 12(e) and to strike portions of the Complaint pursuant to FRCP 12(f).

### **I. INTRODUCTION**

On April 3, 2008, Plaintiff WILLIAM WHITSITT ("Plaintiff") filed a Complaint asserting a federal civil rights claim pursuant to 42 U.S.C § 1983 for the "Wrongful Tow of My Vehicle From Private Property," "False Arrest From Private Property," "Seizing of Vehicle Property In Violation of the Fourth and Fourteenth Amendments," "Action Under the Color of State Law," "City of Dublin California and Police Department Authority Used in Seizure of My Person and Vehicle Property," "False Imprisonment," "Denial of the Right to Travel," "False Imprisonment," "Cruel & Unusual Punishment," "Denial of Forfeiture Hearing," "Conspiracy Under Color of Law." County Defendants were first served with this Complaint on July 2, 2008. An Amended Complaint was also filed on April 25, 2008, alleging another cause of action entitled "Denial of the Right to a Good Name and Damage of my Credit Under Color of State Law."

Plaintiff concedes the County Defendants acted within the scope of the authority granted them pursuant to City Ordinances, the California Vehicle Code, and the California Penal Code. (Complaint, at 9:24-26.) The crux of Plaintiff's Complaint and Amended Complaint is that the Fourth and Fourteenth Amendments of the United States Constitution prohibit states from enacting laws to protect public safety or grant enforcement powers to peace officers, if such laws may inhibit Plaintiff's perceived absolute freedom to originate and declare his own sovereign rights—specifically to drive without a license, shield himself from law enforcement by entering private land, and to be free from the consequences flowing from his unlawful actions. (Complaint, at 9:25-27; 12:15-18; 14:17-18; Amended Complaint, at 2:21.)

1 Plaintiff's 30 pages of allegations are interposed with cut-and-paste legal citations,  
2 conclusory allegations, and unsupported random assertions of private individual rights. As  
3 drafted, the allegations of Plaintiff's complaint mix a fantasy-based view of both Plaintiff's legal  
4 rights. The result is a nontraditionally worded and indecipherable Complaint, to which it is  
5 impossible for County Defendants to respond.

6 Neither the Complaint nor the Amended Complaint allege any facts forming a prima  
7 facie basis supporting the notion that County Defendants violated any Constitutional Right  
8 possessed by the Plaintiff. Thus, the Complaint fails to state a claim upon which relief may be  
9 granted. In addition to the other problems warranting dismissal with prejudice, it should be  
10 dismissed on the basis of fatal uncertainty pursuant to FRCP 12(b)(6).

## 11 II. STATEMENT OF FACTS

12 Plaintiff fails to provide facts sufficient to respond to the instant Complaint. However,  
13 piecing together splices of information woven into Plaintiff's argument County Defendants  
14 provide the following statement of facts.

15 The Alameda County Sheriff's Office contracts with City of Dublin Police Services to  
16 provide law enforcement services in their jurisdiction. (Complaint, at 5:7-12.)

17 On an unstated date, in a private parking lot, in an unspecified location, Plaintiff's  
18 vehicle was seized and towed incident to his arrest on a misdemeanor warrant. (Complaint at  
19 3:25; 28:9-15.) The arrest and seizure resulted from Plaintiff's Vehicle Code violations.

20 (Complaint at 12:11; 18:15.) Plaintiff did not have a valid driver's license. (Complaint, at 29:3-  
21 5.) The arrest and seizure did not result from a report made by the parking lot owner.

22 (Complaint 4:7) During the incident the Defendant Zedlitz was in constant communication with  
23 dispatch and participated in ordering the arrest and vehicle seizure. (Complaint, at 11:14-17.)

24 Three times Defendant Zedlitz "was told by [Plaintiff] that [Plaintiff] was a Private Parking Lot  
25 (Private Property) and the Vehicle Code has No Jurisdiction. (Complaint, at 4:22-25; 6:6-9).

26 Plaintiff warned the Defendant officer that the Vehicle Code and Penal Code was insufficient  
27 authority to justify the arrest. (Complaint at 16:14-15.) Plaintiff was not provided with a copy of  
28

1 the warrant for his arrest warrant. (Complaint at 15:15-16.) The arrest warrant was not a felony  
2 warrant. (Complaint, at 14:10-11.)

3 Upon seizure of the vehicle, the tow was performed by R. Lance & Son Towing Agency.  
4 (Complaint, at 5:14.) Plaintiff admits, "The Named Police (Sheriff Deputy) Clearly Acted under  
5 the Authority of City Ordinance and California Vehicle Code and Penal Code." (Complaint at  
6 9:23-25; 11:2-5.) Plaintiff admits the Defendant officer, Jean Zedlitz, acted with the consent of  
7 the parking lot owner. (Complaint at 11:3-5.)

8 After the arrest, Plaintiff alleged he was held overnight at Santa Rita Jail. (Complaint at  
9 15:11-13.) Plaintiff alleged he was first kept in a cement holding cell with 5 other men.  
10 (Complaint at 17:18-19.) Plaintiff alleged was not provided with a pillow, blanket, or mattress.  
11 (Complaint at 17:17-19). Plaintiff alleged the floor and toilet in the cell were dirty. (Complaint  
12 at 18:3.) Plaintiff alleged the drinking water was above the toilet. (Complaint at 18:4.) Plaintiff  
13 alleged the phone did not work for five hours. (Complaint at 18:5-6.) Plaintiff alleged he was  
14 moved to a second cell, which held twenty five men. (Complaint at 18:7-8.) Plaintiff alleged the  
15 physical conditions were similar to those of the first. (Complaint at 18:7-9.) Plaintiff alleged the  
16 third cell was also similar and held 6 men. (Complaint at 18:10-14.)

17 Plaintiff has not been granted a full jury trial to contest the forfeiture of his vehicle.  
18 (Complaint at 26:5-26.) At some unknown date before or after the Tow Hearing, one or more of  
19 the named Defendants filed for a lien on the Vehicle, which has adversely impacted Plaintiff's  
20 credit rating. (Amended Complaint, at 2:21-25.)

21 Plaintiff demands \$2,785,000 general damages against County Defendants, and  
22 \$200,000 punitive damages against the each County Defendant.  
23

### 24 III. ARGUMENT

#### 25 A. PLAINTIFF'S COMPLAINT SHOULD BE DISMISSED FOR FAILURE TO STATE A CLAIM

##### 26 a. 12(b)(6) Standard

27 Under Federal Rule of Civil Procedure 12(b)(6), a claim may be dismissed because of  
28 the plaintiff's "failure to state a claim upon which relief can be granted." (Fed. R. Civ. P.



12(b)(6).) A claim must be dismissed when “it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations.” (*Neitzke v. Williams* (1989) 490 U.S. 319, 327.) In reviewing a complaint under Rule 12(b)(6), all allegations of material fact must be taken as true. (*Newman v. Sathyavaglswaran* (9th Cir. 2002) 287 F.3d 786, 788.) The Court need not accept as true conclusory allegations or legal characterizations. Nor need it accept unreasonable inferences or unwarranted deductions of fact. (*In re Delorean Motor Co* (6<sup>th</sup> Cir. 1993) 991 F.2d 1236, 1240, *Transphase Systems, Inc. v. Southern Calif. Edison* (CD CA 1993) 839 F. Supp 711, 718.)

Courts, however, will not assume that plaintiffs “can prove facts which [they have] not alleged, or that the defendants have violated . . . laws in ways that have not been alleged.” (*Associated General Contractors of California, Inc. v. California State Council of Carpenters* (1983) 459 U.S. 519, 526.) Dismissals under Rule 12(b)(6) are proper when there is a lack of a cognizable theory or an absence of sufficient facts alleged under a cognizable legal theory. (*Navarro v. Block* (9th Cir. 2001) 250 F. 3d 729, 732.)

Further, under Federal Rule of Civil Procedure 12(b)(6) a complaint should be dismissed where it appears with certainty that the Plaintiff would not be entitled to relief under any set of facts that could be proven. (*Reddy v. Linton Indus*, (9<sup>th</sup> Cir. 1990) 912 F.2d 291, 293, *cert denied*, 502 US 921 (1991). As set forth below, Plaintiff’s claims in this case are barred by either and/or all of the above FRCP 12(b)(6) grounds. Hence, his Complaint must be dismissed for failure to state a cause of action.

b. Plaintiff Has Failed to Allege Sufficient Facts to State a Section §1983 Claim against County Defendants

i. Plaintiff Has Failed to Allege Facts to Support a Violation of His Constitutional Rights by County Defendants’ Policies, Customs, or Practices

A public entity is only liable under 42 U.S.C § 1983 where it has a policy, custom or practice that violates the constitutional rights of an individual. *Monell v. Dep’t of Social Services*, 436 U.S. 658, 691(1978). It bears no vicarious liability for the acts or omissions of, for example, employees. (*Ibid.*) “[T]o prevail on their § 1983 claims, plaintiffs must have



1 sufficiently alleged that: (1) they were deprived of their constitutional rights by defendants and  
2 their employees acting under color of state law; and (2) that the defendants have customs or  
3 policies which 'amount [...] to deliberate indifference' to their constitutional rights; and (3) that  
4 these policies are the 'moving force behind the constitutional violation.'" *Lee v. City of Los*  
5 *Angeles*, 250 F3d 668, 681-682 (9<sup>th</sup> Cir, 2001).

6 Under the tenth amendment of the United States Constitution, "the powers not  
7 delegated to the United States by the constitution, nor prohibited by it to the States, are  
8 reserved to the States respectively, or to the people." The right of a State to enact laws and  
9 regulations to protect the health safety and welfare of its citizens is fundamental and well  
10 settled Tenth Amendment Constitutional Doctrine. The United States Supreme Court, in  
11 *Thurlow v. Massachusetts*, 46 U.S. 504, 589 (U.S. 1847), explained,

12 "The acknowledged police power of a State extends often to the destruction of  
13 property. [...] Every thing prejudicial to the health [...] of a city may be removed. [...] [The police power of a State] is a power essential to self-preservation, and exists,  
14 necessarily, in every organized community. It is, indeed, the law of nature, and is  
15 possessed by man in his individual capacity. And it is the settled construction of every  
16 regulation of commerce, that, under the sanction of its general laws, no person can  
17 introduce into a community any thing which endangers its safety. And this is an  
18 acknowledged principle applicable to all general regulations. Individuals in the  
19 enjoyment of their own rights must be careful not to injure the rights of others." (*Id.*)

20 The "policy" for which Plaintiff seeks to hold County Defendants liable is a policy of  
21 following California law—law Constitutionally enacted to protect the safety and welfare of  
22 California citizens from hazards imposed on roadways by unlicensed drivers.

23 In California,

24 "[w]henever a peace officer determines that a person was driving a vehicle while his or  
25 her driving privilege was suspended or revoked, [...] the peace officer may [...] immediately arrest that person and cause the removal and seizure of that vehicle [...].  
26 A vehicle so impounded shall be impounded for 30 days."  
27 (Cal. Veh. Code §14602.6(a)(1).)

28 Plaintiff concedes that County Defendants acted under statutory authority. Thus, there is  
no *Monell* liability for County Defendants' adherence to state arrest and impoundment  
procedures. As such, Plaintiff has failed to state a cause of action against County Defendants.

1 *ii. Plaintiff Has Failed to Identify Any Alleged Constitutional Violation.*

2 “The causation requirement of section 1983 is not satisfied by a showing of mere  
3 causation in fact. See W. Prosser, Law of Torts § 41 at 238-239 (4<sup>th</sup> ed, 1971). Rather, the  
4 plaintiff must establish proximate or legal causation.” *Arnold v. Int’l Business Machines Corp.*,  
5 637 F2d 1350, 1355 (9<sup>th</sup> Cir. 1981). Defendants’ acts must be the proximate cause of the  
6 injury. (*Ibid.*) The Court need not accept as true conclusory allegations or legal  
7 characterizations. Nor need it accept unreasonable inferences or unwarranted deductions of  
8 fact. *In re Delorean Motor Co* (6<sup>th</sup> Cir. 1993) 991 F2d 1236, 1240, *Transphase Systems, Inc. v.*  
9 *Southern Calif. Edison* (CD CA 1993) 839 F. Supp 711, 718.

10 The crux of Plaintiff’s current Complaint is that he was stopped, arrested, and his vehicle  
11 was seized on some unspecified date in the private parking lot of another, who had contracted  
12 with DPS to provide law enforcement services. (Complaint, at 3:22-24; 4:6-7; 19:12-14) He  
13 alleges that this series of events led to a lien being placed on the Vehicle, which he can not  
14 afford to recover from Lance & Son Tow Storage. (Amended Complaint, at 2:25.) Plaintiff  
15 appears to interpret “Color of Law,” to mean, “pursuant to statute.” Plaintiff provides no law  
16 facially supporting the illegality of any conduct alleged. In fact, Plaintiff concedes the County  
17 Defendants acted within the scope of the authority granted them pursuant to City Ordinances,  
18 the California Vehicle Code, and the California Penal Code. (Complaint, at 9:24-26.) Plaintiff’s  
19 alleged Constitutional violations arise from a self-created Bill of Rights, which is inconsistent  
20 with the Constitution of the United States and corresponding common law precedents.

21 County Defendants’ actions were consistent with state law and satisfied Plaintiff’s due  
22 process protections as specifically discussed below.

23  
24 **1. Towing, Arrest, Vehicle Seizure, and Hold Did Not Violate  
Plaintiff’s Constitutional Rights**

25 County Defendants acted within California law in arresting Plaintiff and impounding his  
26 Vehicle.

27 “Any sheriff, undersheriff, or deputy sheriff, employed in that capacity, of a  
28 county [...]any police officer, of a city, [...]or [...]of a district, [...] authorized by statute to

maintain a police department, [...] is a peace officer. The authority of these peace officers extends to any place in the state, as follows: (1) As to any public offense committed or which there is probable cause to believe has been committed within the political subdivision that employs the peace officer or in which the peace officer serves. [...] (3) As to any public offense committed or which there is probable cause to believe has been committed in the peace officer's presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of the offense. (Cal Pen Code § 830.1)

"A peace officer... may remove a vehicle located within the territorial limits in which the officer or employee may act, under the following circumstances...(h)(1) When an officer arrests a person driving or in control of a vehicle for an alleged offense and the officer is, by this code or other law, required or permitted to take, and does take, the person into custody." (Cal. Veh. Code 22651(h)(1).)

"Whenever a peace officer determines that a person was driving a vehicle while his or her driving privilege was suspended or revoked, ... the peace officer may either immediately arrest that person and cause the removal and seizure of that vehicle ..... A vehicle so impounded shall be impounded for 30 days." (Cal. Veh. Code §14602.6(a)(1).)

Even, under the most liberal reading of Plaintiff's alleged facts, Plaintiff again fails to allege any claim upon which relief may be granted, because as he concedes County Defendants acted pursuant to Local Ordinances and the above cited California State Laws.

The applicable Vehicle Codes were enacted pursuant to the State's Tenth Amendment Constitutional right and obligation to protect its citizens' rights to general safety and to protect the public roads from hazards created by unsafe, unlicensed drivers. County Defendants' actions pursuant to such statute present no cognizable legal theory indicating Plaintiff may have may have suffered a 25 U.S.C. § 1983 violation.

## **2. Conditions of Overnight Confinement at Santa Rita Jail do Not State a Claim of Cruel and Unusual Punishment.**

The Eighth Amendment of the United States Constitution, which applies to the States through the Due Process Clause of the Fourteenth Amendment, *Robinson v. California*, 370 U.S. 660, 666, (1962), prohibits the infliction of "cruel and unusual punishments" on those convicted of crimes. Only the "unnecessary and wanton infliction of pain" implicates the Eighth Amendment, *Estelle v. Gamble*, 429 U.S. 97, at 104 (1976) (quoting *Gregg v. Georgia*, 428 U.S. 153, 173, (1976) (joint opinion)), a prisoner advancing such a claim must, at a minimum,

1 allege "deliberate indifference" to his "serious" medical needs. *Estelle v. Gamble*, 429 U.S. at  
 2 106. It is only such indifference that can violate the Eighth Amendment." *Id.*

3 Here, while Plaintiff alleges his generalized discomfort with the holding cell  
 4 environments, he alleges no facts suggesting 'unnecessary or wanton infliction of pain.'  
 5 Moreover, no specific state actor is identified related to Plaintiff's alleged discomfort with his  
 6 conditions of confinement. Thus, Plaintiff fails to state an Eighth Amendment claim or to  
 7 support any elements of a § 1983 claim.

### 8 **3. Plaintiff Was Granted a Tow Hearing**

9 "Whenever an authorized member of a public agency directs the storage of a  
 10 vehicle... the agency or person directing the storage shall provide the vehicle's  
 11 registered and legal owners of record, or their agents, with the opportunity for a  
 12 poststorage hearing to determine the validity of the storage." (Cal. Veh. Code §  
 22852(a).

13 "A notice shall be mailed within 48 hours of the impoundment, and if a request is  
 14 made, a hearing shall be held within ten days of such request." (Cal. Veh. Code §  
 22852(b).

15 Moreover, a tow hearing under Cal. Vehicle Code § 22852 "satisfies due  
 16 process concerns." (*Scofield v. Hillsborough*, (9<sup>th</sup> Cir. 1988) 862 F.2d 759, 764).

17 In his raw list of Causes of Action, Plaintiff alleges "#8 Denial of Forfeiture Hearing."  
 18 (Complaint at 3:18.) The claim is never again mentioned. However, County Defendants  
 19 provided Plaintiff with the opportunity for a post-storage "Tow Hearing" in substantial  
 20 compliance with the statutory scheme. The above cited scheme does not require a full jury  
 21 trial.

### 22 **4. There is No Inalienable Right to Drive Without a License**

23 County Defendants are unable to ascertain the nature and legal authority for the  
 24 Plaintiff's claim entitled, "Denial of the Right to Travel." On its face the Complaint appears to  
 25 challenge the legality of any Constitutional or Statutory scheme which would condition  
 26 Plaintiff's ability to drive on the possession of a valid driver's license. Plaintiff does not deny  
 27 that he held no valid drivers license. Under Federal Rule of Civil Procedure 12(b)(6) this claim  
 28 should be dismissed as it appears with certainty that the Plaintiff would not be entitled to relief

1 under any set of facts that could be proven. (*Reddy v. Linton Indus*, (9<sup>th</sup> Cir. 1990) 912 F.2d  
2 291, 293, *cert denied*, 502 US 921 (1991).)

3 **5. Damage to Plaintiff's Credit Rating States No**  
4 **Cause of Action Against County Defendants.**

5 Plaintiff pleads no facts or law sufficient to apprise County Defendants of what has  
6 occurred with respect to a lien and his credit rating. Neither does the Complaint allege facts  
7 sufficient to show County Defendants played any role in any allegedly unconstitutional act  
8 which damaged Plaintiff's credit rating.

9 County Defendants can only speculate from the text of the Complaint that the Tow  
10 Operators filed a lien against the vehicle, because Plaintiff was unable to pay the storage fees  
11 to secure the release of his vehicle. County Defendants have no control over the disposition of  
12 the Vehicle, because it has not been in the County's control or possession since April, 2008,  
13 when the impoundment period ordered by the Tow Hearing officer lapsed.

14 Plaintiff fails to offer sufficient facts or law to show that any action pertaining to a lien  
15 being placed on the Vehicle constituted a Constitutional violation.

16 c. Plaintiff's Complaint Fails to State a Cause of Action against County Defendants

17 As the Court noted in *Saucier v. Katz*, "A court required to rule upon the qualified  
18 immunity issue must consider, then, this threshold question: Taken in the light most favorable  
19 to the party asserting the injury, do the facts alleged show the officer's conduct violated a  
20 constitutional right? This must be the initial inquiry." *Saucier v. Katz*, (2001) 533 U.S. 194, 201,  
21 citing *Siegert v. Gilley* (1991) 500 U.S. 226, 232.) "If no constitutional right would have been  
22 violated were the allegations established, there is no necessity for further inquiries concerning  
23 qualified immunity." (*Id.*)

24 When this standard is applied, no causes of action sound against any County  
25 Defendants. An individual's declaration of a right that does not exist does not create clearly  
26 established law.  
27  
28

1 Plaintiff's attention to the second prong of a qualified immunity analysis fails without  
2 satisfaction of the first prong. Plaintiff was first required to show that a constitutional right was  
3 violated. However, as discussed above, because no constitutional right was violated, there is  
4 no reason to assess whether any County Defendant would have understood that he was  
5 violating a right. Plaintiff concedes that County Defendant's acted pursuant to state statutes  
6 and local ordinances. Thus, no cause of action against any County Defendant exists because  
7 no County Defendant violated law or clearly established law.

#### 8 IV. CONCLUSION

9 Plaintiff's Complaint should be dismissed pursuant to Federal Rule of Civil Procedure  
10 12(b)(6) for failure to state a claim upon which relief should can be granted.  
11

12 DATED: July 22, 2008

RICHARD E. WINNIE  
County Counsel in and for the County of  
Alameda, State of California

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14  
15 By  \_\_\_\_\_

DIANE C. GRAYDON  
Deputy County Counsel  
Attorneys for Defendants  
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DECLARATION OF SERVICE

William J. Whitsitt v. Deputy Sheriff Jean Zedlitz et al.

Case No. C08-01803 JSW

I, Jonna Thomas, declare that:

I am a citizen of the United States, over the age of 18 years and not a party to the within entitled action. I am employed at the Office of the County Counsel, County of Alameda, 1221 Oak Street, Suite 450, Oakland, California 94612-4296.

On July 22, 2008, I served the following documents:

1. DEFENDANT COUNTY OF ALAMEDA'S NOTICE OF MOTION TO DISMISS PURSUANT TO FRCP 12(b)(6).
2. ORDER OF DISMISSAL

on the following parties:

William J. Whitsitt  
335 W. Clover Road  
Tracy, CA 95376

☒ BY MAIL: I caused true and correct copies of the above document(s) to be placed and sealed in an envelope (or envelopes) addressed to the addressee(s) with postage thereon fully prepaid, and I further caused said envelope(s) to be placed in the United States mail, in the City of Oakland, California.

☐ BY FACSIMILE: I caused a copy (or copies) of such document(s) to be sent via facsimile transmission to the office(s) of the addressee(s).

☐ BY PERSONAL SERVICE: I caused true and correct copy (or copies) of the above document(s) to be placed and sealed in an envelope (or envelopes) addressed to the addressee(s) and I caused such envelope(s) to be delivered by hand on the office(s) of the addressee(s).

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Oakland, California on July 22, 2008.

*s/ Jonna Thomas*

JONNA M. THOMAS



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

WILLIAM J. WHITSITT,  
Plaintiff,

Case No.: C08-01803 JSW

v.

**ORDER**

DEPUTY SHERIFF JEAN ZEDLITZ, BADGE  
#1625; R. LANCE & SON TOWING STORAGE  
AGENCY; CITY OF DUBLIN; COUNTY OF  
ALAMEDA, CREDIT REGULATING SERVICES;  
10 UNNAMED DEFENDANTS

Date: September 5, 2008  
Time: 9:00 am  
Courtroom: 2

Defendants.

Defendants , DEPUTY SHERIFF JEAN ZEDLITZ, BADGE #1625; CITY OF DUBLIN;  
and COUNTY OF ALAMEDA ("COUNTY DEFENDANTS") moved to dismiss the above-  
referenced action and all causes of action therein, pursuant to FRCP 12(b)(6). Defendant  
ZEDLITZ did not appear / did appear. COUNTY DEFENDANTS appeared by counsel Diane C.  
Graydon, Deputy County Counsel, Office of the Alameda County Counsel; Plaintiff William J.  
Whitsitt did not appear / did appear.

1 Based upon COUNTY DEFENDANTS' Motion and the Points and Authorities supporting  
2 its motion, and the court having considered Defendants' Motion and the Points and Authorities  
3 supporting its motion, having heard the argument of counsel, and being fully advised in the  
4 premises, orders as follows:

5 IT IS HEREBY ORDERED that this action is dismissed with prejudice.

6  
7 DATED:

By \_\_\_\_\_  
United States Judge  
Northern District of California